

Message Text

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ORIGIN ARA-20

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FM SECSTATE WASHDC

TO AMEMBASSY LA PAZ PRIORITY

C O N F I D E N T I A L STATE 083632

E.O. 11652: GDS

TAGS: BDIS, BL

SUBJECT: IMPC/EMBOSA PROBLEM

REF: A) STATE 20874; B) LA PAZ 590; C) LA PAZ 945;
D) STATE 24262

FOR AMBASSADOR STEDMAN

1. REFTEL A REPORTED ASSISTANT SECRETARY KUBISCH'S MEEING WITH FRANK TYE AND HIS PROMISE TO REVIEW TYE'S DISPUTE WITH THE GOB RESULTING FROM LIQUIDATION OF THE EMBOSA JOINT VENTURE TO DETERMINE WHAT ACTION DEPARTMENT MIGHT TAKE TO ASSIST TYE. THIS REVIEW HAS NOW BEEN COMPLETED.

2. THE ARGUMENTS OF BOTH PARTIES AND THE EMBASSY'S MOST RECENT VIEWS ON THE CASE (REFTELS B AND C) WERE FULLY CONSIDERED IN THIS REVIEW. ON THE BASIS OF AVAILABLE INFORMATION, DEPARTMENT HAS CONCLUDED THAT BOTH TYE AND GOB CAN MAKE GOOD ARGUMENTS THAT THE OTHER FAILED TO COMPLY WITH SOME OF ITS OBLIGATIONS UNDER THE IMPC SETTLEMENT AGREEMENTS AND THE EMBOSA STATUTES, AND THAT ADEQUATE
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GROUND FOR EMBOSA LIQUIDATION CAN ONLY BE DETERMINED BY

COURT OR OTHER IMPARTIAL THIRD PARTY PROCEEDING. AS INDICATED REFTEL D, HOWEVER, DEPARTMENT CONTINUES TO DOUBT PROPRIETY OF GOB'S LIQUIDATION OF EMBOSA PRIOR TO RESOLUTION OF PENDING DISPUTES.

3. YOU SHOULD RAISE THIS MATTER WITH GOB AT APPROPRIATE LEVEL (WE NOTE THAT MINMINES LEMA IS ALLEGEDLY BIASED AGAINST TYE AND THAT IT MIGHT NOT BE ADVISABLE TO RAISE THIS MATTER WITH HIM), POINTING OUT THAT WHILE USG DOES NOT TAKE ANY POSITION ON THE MERITS OF THE CASE, WE BELIEVE GOB LIQUIDATION OF EMBOSA WITHOUT RESOLUTION OF THE DIFFERENCES BETWEEN THE TWO PRINCIPALS MAY HAVE PRECLUDED TYE FROM RECEIVING A FAIR HEARING. ACCORDINGLY, WE SUGGEST THAT THE MATTER BE ARBITRATED PURSUANT TO ARTICLE 41 OF THE EMBOSA STATUTES OR ADDRESSED IN SOME OTHER MUTUALLY ACCEPTABLE MANNER. WE DO NOT, OF COURSE, WISH TO BECOME DIRECTLY INVOLVED IN ARBITRATION OR NEGOTIATIONS BETWEEN THE PARTIES, AND BELIEVE THAT SUCH AN APPROACH OFFERS THE BEST PROSPECTS FOR SOLUTION WITHOUT DIRECT USG INVOLVEMENT IN SUBSTANCE OF SETTLEMENT. TYE HAS INDICATED HE WILL ACCEPT ARBITRATION.

4. FYI REFTEL A REPORTED THAT TYE INDICATED HE MIGHT BE WILLING TO DROP IMPC/EMBOSA CLAIM IF GOB DID NOT EXERCISE ITS STOCK OPTION ON GIBRALTER HUARI-HUARI (GHH) MINING VENTURE WHICH EXPIRED MARCH 1. SUBSEQUENT DISCUSSIONS WITH DEPARTMENT OFFICERS REVEALED THAT TYE WANTS ADDITIONAL QUID PRO QUO IN FORM OF "TAX CREDIT" FROM GOB WHICH WOULD PERMIT GHH TO EXPORT AN UNSPECIFIED QUANTITY OF MINERALS WITHOUT PAYMENT OF EXPORT TAXES. WE ADVISED TYE THAT WHILE THE DEPARTMENT WAS PREPARED TO MAKE ABOVE REPRESENTATION ON HIS BEHALF, IT COULD NOT BECOME DIRECTLY INVOLVED IN ARBITRATION OR NEGOTIATIONS AND THAT HE WOULD HAVE TO WORK OUT SETTLEMENT DETAILS WITH GOB. END FYI KISSINGER

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